

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**JANICE A. WARD,**

**Plaintiff,**

**VS.**

**JO ANNE B. BARNHART,  
COMMISSIONER, SOCIAL  
SECURITY ADMINISTRATION,**

**Defendant.**

**CASE NO. 8:05CV161**

# MEMORANDUM AND ORDER

This matter is before the Court on the Application for Attorney Fees (Filing No. 17) filed by the Plaintiff, Janice A. Ward, and the attached itemization. The application for attorney fees is filed pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d). The Court also notes the Response submitted by the Defendant, Jo Anne B. Barnhart, Commissioner of Social Security (Filing No. 19).

The Commissioner's final decision was that Ward was not disabled. After Ward filed her brief in this appeal, the Commissioner filed a motion to reverse and remand. (Filing No. 13.) Accordingly, the Court entered Judgment reversing the matter and remanding the case to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g). (Filing Nos. 14, 15.)

Subsequently, the Plaintiff's attorney filed a timely application for attorney fees. The total amount requested is \$4,680.00 (30 hours at \$156.00 per hour). The requested hourly rate exceeds the usual rate of \$125 per hour established in the 1995 amendment to 28 U.S.C. § 2412(d)(2)(D)(2)(A). However, the Plaintiff's attorney has submitted information regarding the increase in cost of living since 1995. The Commissioner does not contest

the requested amount. (Filing No. 19.) The Court determines, pursuant to § 2412(d)(2)(D)(2)(A), that an increased cost of living justifies the higher requested fee.

After reviewing the record, the briefs, the supporting Affidavits, and the applicable law, the Court finds that the requested award of attorney fees is appropriate. The Court will order payment of fees to the Plaintiff's attorney.

The Commissioner requests that the amount requested for costs, i.e., \$250 for the Clerk's filing fee, be paid from the Judgment Fund administered by the United States Treasury as opposed to Social Security Administration appropriations. After reviewing the record, the briefs, counsel's Affidavit, and the applicable law, the Court finds that an award of costs in the amount of \$250.00 is appropriate. The Court contemplates that both the fees and costs will be paid as generally provided under 28 U.S.C. § 2412, as the statute relates to attorney fees and costs.

IT IS ORDERED:

1. The Plaintiff's Application for Attorney Fees (Filing No. 17) is granted;
2. The Plaintiff is awarded attorney fees in the amount of \$4,680.00, payable to Gregory W. Peterson, Plaintiff's attorney.

DATED this 30<sup>th</sup> day of August, 2005.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge